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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3670 OF 2006

Rajendra Dattatraya Nivangune
and Ors. .. Applicants

Versus

The State of Maharashtra .. Respondents

Mr.C.F.Pendse i/b. M.S.Mohite for applicants
Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 12th October 2006

P.C.

. This application was argued yesterday i.e. 11th October 2006 and upon taking

instructions, Mr.Pendse, learned Advocate appearing for applicants states that he does not press for bail at this stage, insofar as applicant Nos. 1 and 2 are concerned.

2. He submits that case of applicant No.3 is slightly different inasmuch as, all that can be said is that he was riding on the same motor-cycle along with applicant Nos. 1 and 2. However, recovery of weapons and blood stained clothes is at the instance of applicant Nos. 1 and 2. Prima facie, identification by the eye witness in the presence of police would not be enough to conclude that the applicant No.3 is involved in the incident. In such circumstances, atleast his application should be sympathetically considered.

3. Learned A.P.P. has invited my attention to not only the statements of the co-accused but to that of Chandra Gopal who is working as waiter in the Hotel Malhar. He also invites my

attention to the statement of another waiter Namdeo Dagdu and contends that these have been taken into consideration by the trial court and once the offences alleged are serious and punishable with imprisonment for life or death sentence there is no warrant for making any distinction as far as applicant No.3 is concerned.

4. Having perused the materials and when investigations are complete so also the charge sheet filed, the case of applicant No.3 atleast can be considered. It is not disputed that recovery of the blood stained clothes and the weapons is at the instance of applicant Nos. 1 and 2. In such circumstances and when the incident has allegedly occurred because of the earlier incident of the deceased having harassed the wife of cousin brother of applicant No.1, applicant No.3 deserves to be enlarged on bail, with stringent conditions. There are no antecedents pointed out nor is there any case

made out of the said applicant being not available at the trial. Hence, following order:-

i) The applicant No.3 Sanjay Baburao Deshmukh arrested in connection with C.R.No.75 of 2006 registered with Haveli Police Station shall be enlarged in the sum of Rs.15,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant shall stay outside limits of Haveli Police Station till the trial is concluded and will remain present before the nearest police station from his residence once a week between 5.00 p.m. and 7.00 p.m. on every Friday till conclusion of the trial.

iii) The order of bail will be given effect only after the applicant furnishes

to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)